IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 2ND MARCH 2007 / 11TH PHALGUNA 1928

Crl.Rev.Pet.No. 408 of 1998(B)

CRA.131/1995 of iST ADDL. SESSIONS COURT, THRISSUR
ST.1630/1991 of JUDL. MAGISTRATE OF FIRST CLASS COURT, CHALAKUDY

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REVN. PETITIONER:

BABY, S/O. DEVASSY, KOTTATTUKUDY,
VAPPALASSERY HOUSE,
CHALAKUDY SOUTH.

BY ADV. SRI.M.V.BOSE
SRI.VINOD MADHAVAN

RESPONDENTS:
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1. VARGHESE, S/O. LONAPPAN
CHOWARAKKARAN HOUSE,
NEAR TRANSPORT BUS STANDS CHALAKUDY.

2. KERALA STATE REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI.P.I.DAVIS
R2 BY PUBLIC PROSECUTOR MR. BREEZE M.S.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 02/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.M.P. NO. 2152 OF 1998 IN CRL.R.P.NO. 408 OF 1998

DISMISSED.

2-3-2007 SD/-K.R.UDAYABHANU, JUDGE

TRUE COPY

P.S.TO JUDGE

K.R. UDAYABHANU, J.

CRL.R.P.NO.408 of 1998

DATED THIS THE 2nd DAY OF MARCH 2007

ORDER

The revision petitioner stands convicted for the offence under Section 138 of the Negotiable Instruments Act and sentenced to imprisonment till the rising of the court and to pay a compensation of Rs.68,000/- to the complainant and in default to undergo simple imprisonment for one month. It is contended by the revision petitioner that he had transaction only with Empire Finance, Chalakudy which was subsequently wound up and that the complainant was a partner in the Empire Finance. According to him, he had discharged of dues to the firm. He has produced Exts.D1 to D3 notices sent by Empire Finance . It is further contended that PW1 has deposed that the accused filled up the cheque in his presence and in the presence of his wife as well. But on an examination of the cheque it can be seen that the signature is executed with a different pen. I find that the last mentioned contention has not been raised before both the courts below. Hence he is not entitled to raise the same before this Court being a question of fact. The courts below have noticed that the revision petitioner/accused has not issued even a reply notice. The evidence of DW1, the accused, and Exts.D1 to D3,

I find are not sufficient to rebut the statutory presumptions under Sections 118 and 139 of the Negotiable Instruments Act. Nothing has been brought out in the cross examination of PW1 to disprove his case. I find no reason to interfere in the findings of the courts below. The conviction and sentence are confirmed. The Crl.revision petition is dismissed.

K.R.UDAYABHANU, JUDGE

ks.

K.R.UDAYABHANU, J

CRL.R.P.NO.408 OF 1998

ORDER

2-3-2007